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May 30, 2008

VIA Facsimile (with permission)
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Hon. Mark D. Fox, U.S.M.J.
USDC Southern District of New York
United States Court House
300 Quarropas Street - Room 434
White Plains, New York 10601

MEMO ENDORSED

Re: Orr v. Red Hook Central School District, et al.
Civil Case No.: 07 Civ. 8388 (SCR/MDF)

Dear Magistrate Judge Fox:

We write to request that the Order of Dismissal at Docket Number 11 in the above-referenced case be expunged and the stipulation annexed hereto be entered. As the Court may recall there was a disagreement between Plaintiff's counsel and Defendants regarding the issue of attorneys' fees. A conference was held with the Court on May 16, 2008, to discuss the same, at which time the Court ordered Defendants to make a motion for attorneys' fees within ten days or their right to do so would be waived. (Pursuant to L.R. 6.4 and FRCP Rule 6(a), it was my understanding that the deadline to submit a motion was June 2, 2008.)

Thereafter, the parties reached an agreement, thus alleviating the need for motion practice. An executed Stipulation of Discontinuance was received from Plaintiff's counsel by this office on May 29, 2008, which was immediately mailed to the Court to be so ordered. Unfortunately, it appears that the Stipulation of Discontinuance was not received by the Court prior to the Order that was entered at Docket Number 11. Therefore, provided the proposed Stipulation is acceptable to the Court, we respectfully request that the Order entered on May 30, 2008, at Docket Number 11 be replaced with the enclosed Stipulation.

Thank you for your consideration of this request.

Respectfully yours,

GIRVIN & FERLAZZO, P.C.

By:

Jacinda H. Conboy

Bar Roll No.: JH2826

JHC:lmg
Attachment

cc: Michael C. Pelletier, Esq.

4/2/08 So. Ind. Ct.

OK

USDC SDNY
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